

Virginia Racing Commission

MINUTES

OF THE

COMMISSION MEETING

February 18, 2009

**HORSEMEN'S BUILDING
COLONIAL DOWNS
10700 HORSEMEN'S ROAD
NEW KENT, VA**

In Attendance

Commission Members

Peter C. Burnett, Chairman
Mark Brown, Vice Chairman
William H. (Trip) Ferguson
I. Clinton Miller
David C. Reynolds

Commission Staff:

Victor I. Harrison, Executive Secretary
David S. Lermond, Jr., Deputy Executive Secretary
Kimberly M. Carter, Office Administrator
C. Richard Harden, DVM, Commission Veterinarian
Joseph M. Roney, Director of Operations & Enforcement

Attorney General's Office:

Amy K. Dilworth

At 9:40 a.m., Chairman Burnett called the regular monthly meeting of the Commission to order.

The minutes of the December 17, 2008 meeting were approved.

The minutes of the January 21, 2009 meeting were approved.

Executive Secretary Harrison gave a legislative update, stating that House Bill 2604, known commonly as the ADW bill, passed the House by a vote of 89 to 9, and the Senate, 40 to nothing. It is being forwarded to the governor for his signature. The bill's three core changes are:

- a 10% source-market fee to the race track and the horsemen from the ADW providers;
- a repeal of the temporary licensing provision, Section 59.1-376.1, and;
- 1% of ADW wagers going to the Breeders Fund.

Commissioner Miller led a discussion on the ADW bill's repeal of Section 59.1-376.1. It was noted that the Commission will continue to vote on all contracts with a value above \$15,000. Mr. Weinberg added that there was no ulterior motive for deleting the temporary license bill.

A discussion ensued about the TwinSpires' temporary license. Mediation was held on February 2nd that did not result in a settlement. Chairman Burnett made a motion to continue the temporary license of TwinSpires until July 1st, the date the new ADW legislation ostensibly goes into effect. The motion was seconded by Commissioner Miller and carried unanimously.

Executive Secretary Harrison submitted changes to five regulations:

1. 11 VAC 10-50-30 (3), Racing Secretary specifically with respect to the timeline printing requirements of the condition book. Commissioner Brown made a motion to adopt as final, seconded by Chairman Burnett. All were in favor, the motion carried.
2. 11 VAC 10-60-15 Fee Schedule (Licensing), a change to the licensing fees. As proposed. This was tabled until the March meeting.
3. Commissioner Brown made a motion that the amendment to 11 VAC 10-70-20, Stewards, relating to their appointment, be approved as final, seconded by Commissioner Ferguson. All were in favor, the motion carried.
4. Commissioner Brown made a motion that the suggested amendment to 11 VAC 10-70-90, Appointment of Substitute, specifically with respect to input from the Executive Secretary, be approved as final. Chairman Burnett seconded. All were in favor, the motion carried.
5. 11 VAC 10-120-80 (4), Restrictions on a Claimed Horse, specifically with respect to leaving a horse on the grounds of the track after a claim until the end of the race meet. Commissioner Brown made a motion to adopt as final, seconded by Chairman Burnett. All were in favor, the motion carried.

Dr. Harden, Equine Medical Director, made comments on the lab setup for the coming year. Dr. Harden emphasized the need for the VRC to be more in tune to what

the lab protocol is on a yearly basis. He updated the Commission on the screening and sample process. He added that the costs will be approximately the same as in 2008. Doctor Harden and Chairman Burnet led a dialogue on zero-tolerance and naturally occurring levels of such substances in race horses as well as commonly found items that make their way into feed such as coffee and tobacco.

There was a discussion by the stakeholders of Colonial Downs for 2009 race days. In the absence of Frank Petramalo, Robin Richards stated that the VHPBA would accept the second proposal from the prior commission meeting – for 40 race days and that the VHPBA would be responsible for funding the purse gap as well as the \$115,000 in incremental expenses to the racetrack.

James Weinberg, counsel for Colonial Downs, spoke to their request for 25 days of 2009 Thoroughbred racing. With respect to the logistics for the gap purse funding, he stated that once MD gets slots it will be hard, if not impossible, to fund the gap – that, in the future, after the total purse dollars are set for the year, we must be certain that amount is generated by the time racing commences.

Ian Stewart noted that purses for the year (2009) should run about \$8.25 million and that roughly \$2.7 million may be needed for gap funding. Mr. Weinberg suggested that the gap purse funding be posted in the horsemen's account by May 1st. He added that the same should hold true for the \$115,000. Chairman Burnett said that perhaps there should be language addressing these issues in the Thoroughbred Horsemen's contract. The primary sticking point in the execution of the Thoroughbred Horsemen's contract is the amount of purse money going to the Colonial Turf Cup and the Virginia Derby. The horsemen want less money paid out in those two events and redistributed over the other 38 days of racing.

There was a lengthy discussion on the unexecuted Thoroughbred Horsemen's contract. Chairman Burnett suggested that the parties be given 30 more days to come to a contract agreement - until the next meeting - and that the 40 racing days that the parties have agreed upon be predicated upon certain conditions being met: In the event the parties have not reached a contract before the next meeting, the race days will remain the same (40), but will be run three days a week starting on Memorial Day. Hence, there will be a three-day a week meet from the 31st of May until roughly Labor Day: Fridays, Saturdays, and Sundays - three racing days and four dark days per week.

Afterwards, Chairman Burnett formally moved that the number of race days for the 2009 Thoroughbred season be set at 40, commencing on the day requested (June 4th) at the historically-standard schedule of five days a week on the condition that:

- the horsemen provide satisfactory evidence of their ability to provide gap funding at an amount to be determined by the parties;
- the horsemen provide satisfactory evidence of their ability to provide the \$115,000 to offset the incremental cost of five additional days (from 35 to 40 days);

- the Commission hears back at next month's Commission meeting as to the party's progress on the funding of those two items and the mechanism that they would use, and; that the Commission reserves the right to modify those race days in the event the horsemen and the track have not reached a contract.

The motion was seconded by Commissioner Brown. All were in favor, the motion carried.

There being no further business, March 18th was set as the date of the next meeting to be held at Horsemen's Building, Colonial Downs, 10700 Horsemen's Road, New Kent, VA. It was moved, seconded, and carried to adjourn this February, 2009 monthly meeting of the Commission.

NOTE: The March Commission meeting has been rescheduled to Wednesday, March 25th at 9:30 a.m.